



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

## COMMISSION MEMORANDUM

TO: Mayor David Dermer and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: March 8, 2006

SUBJECT: **REPORT OF THE NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE  
MEETING HELD ON THURSDAY, FEBRUARY 2, 2006.**

A meeting of the Neighborhoods/Community Affairs Committee was held on Thursday, February 2, 2006, at 2:30 pm in the Mayor's Conference Room. Commissioners in attendance: Luis R. Garcia Jr., Saul Gross, Matti H. Bower, Jerry Libbin and Vice-Mayor Richard L. Steinberg. City staff in attendance: Hilda M. Fernandez, Assistant City Manager, Tim Hemstreet, Assistant City Manager, Robert C. Middaugh, Assistant City Manager, Vivian P. Guzman, Director, Neighborhood Services Department, Janice Pye, Neighborhood Services Department, Randi MacBride, Neighborhood Services Department, Fred Beckmann, Director, Public Works Department, Jordana Rubin, Environmental, Public Works Department, Sgt. Paul Marcus, Miami Beach Police Department, John Heffernan, Office of the Mayor and Commission, Marlene Taylor, Office of the Mayor and City Commission, Yvonne Sepulveda, Office of the Mayor and City Commission, and Margarita Alcon, Office of the Mayor and City Commission.

**1. DISCUSSION REGARDING ALLOWING THE DOGS TO USE THE BEACH FOR  
SWIMMING, NORTH OF SOUTH POINTE PIER.**

The item was introduced by Mr. Robert Middaugh, Assistant City Manager. Mr. Middaugh suggested opening the item for discussion only and then to continue it to allow for additional discussion. Commissioner Gross polled the audience and both the proponents and opponents of the dog beach were present for the discussion. Vice-Mayor Steinberg, the acting Chairman, stated the item was deferred but opened the floor to comments.

Roby Greer of the Responsible Dog Owners Association indicated he did not understand the current plan for South Pointe Park. There was at one time a plan to allow dogs to swim at the shell beach, but now it appears they may put rip rap there. Commissioner Gross asked about the wading pool. Mr. Middaugh indicated that the renovation plan originally included a wading area but that was removed due to costs. Furthermore, Mr. Middaugh indicated that there were issues to consider including the issue of cleanliness, hours of access and the issuance of permits. Commissioner Gross asked if it was possible to reconsider the wading pool in the great palm lawn area or the beach. Mr. Middaugh indicated that it was up to the Commission. Mr. Tim Hemstreet, Assistant City Manager, explained that the wading pool was dropped by the Commission. A discussion ensued regarding the use of a wading pool and utilizing the fountain's pumps and aeration.

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Mr. Frank Del Vecchio stated that the plan designated an area for dogs originally but now the City says that is no longer feasible. He went on to say that the park should have a fountain and a dog water area.

Commissioner Gross asked Ms. Hilda Fernandez, Assistant City Manager, how many permits were sold in Ft. Lauderdale. Ms. Fernandez stated that she would provide a full report on the Ft. Lauderdale Canine Beach permits to the Committee.

Harry Cherry suggested that the Health Department should be asked if there are any health concerns with dogs using the same area as humans. Erma Cordero, member of the Beach Preservation Committee for the last 3 or 4 years indicated that she is highly against the idea of allowing dogs on the beach as is the rest of her committee. Mr. Ruiz of ECOMB feels it is a health hazard for humans as many dog owners are not responsible. Mr. Greer responded that there is far more dog fecal matter by the doors of condos because of people who would never take their dog to the beach. Commissioner Garcia indicated he was involved in the mediation of the disagreement at Pinetree Park. He suggested an enclosed area would be best.

Erica Brigham suggested the contractor be tasked to put a ramp over the rip rap. Commissioner Libbin indicted that the real issue seems to be enforcement. A registration fee or license would be a means to pay for enforcement. Commissioner Garcia stated the commingling of dogs and people is not the answer. He wants an oceanfront dog park limited to dogs. Vice-Mayor Steinberg indicated that enforcement is a problem. There is no mechanism to collect the fine because judges will not hear these cases. Commissioner Bower stated that no one is enforcing the ordinance because the courts throw the cases out. Commissioner Gross suggested having the contractor explore a water feature. Vice-Mayor Steinberg indicated that he wants to continue the discussion to the next Committee meeting.

Commissioner Gross was concerned that any changes to the plans would have an impact on the scheduled review before the Design Review Board (DRB). He suggested that they turn the matter over to the contractor to come up with some suggestions. Commissioner Libbin inquired if it goes to DRB before we have a definite plan, is the option closed out? Mr. Hemstreet responded, no, that the matter can be brought back before the DRB for approval. Mr. Hemstreet said there may not be enough time to amend the plans before the meeting on Tuesday. It would be better to amend the permit once a final decision is made. Commissioner Libbin asked if they could give direction to put the dog feature in and not hold up the project. Vice-Mayor Steinberg directed staff go to the DRB without the dog feature and return for approval for the change.

**There was no motion however, this item will return to the next Neighborhoods/Community Affairs Committee for further public discussion and a report on the Ft. Lauderdale Canine Beach permits.**

## **2. DISCUSSION REGARDING THE SEXUAL PREDATOR ORDINANCE.**

Commissioner Gross started the conversation and suggested that we opt out of the Miami-Dade County ordinance. Commissioner Garcia indicated that he hoped we had looked at the financial implications of this ordinance. Specifically, if the City ordinance is enforced, then the City would ultimately be responsible for the prosecution.

Sgt. Paul Marcus, Miami Beach Police Department, stated that the City ordinance was very detailed and might need to be amended to include some of the items found in the County ordinance. He further stated that there are currently 23 offenders living in the City and each has been visited by a Miami Beach Police Officer. Commissioner Garcia asked Sgt. Marcus what the current level of concern was among the police officers. Sgt. Marcus indicated that there was some confusion because originally they were told to enforce the City ordinance and then told not to enforce it. Having both ordinances on the books is confusing. Ms. Hilda Fernandez, Assistant City Manager, stated that if the City decides to opt out of the County ordinance we must do so by Feb 25, 2006, however, the City ordinance may be amended.

Mr. Murray Dubbin, City Attorney, briefly explained the differences between the City and County ordinances. He indicated the City ordinance is more restrictive in regards to distance separation and the County ordinance is more detailed. He further indicated that the City could reject the County ordinance and amend the City ordinance. Commissioner Garcia made a motion to do that. Vice-Mayor Steinberg seconded the motion with a friendly amendment to strengthen the City's ordinance.

Mr. Dubbin indicated he felt the City ordinance was tougher than the County ordinance. Commissioner Garcia stated that we are opting out and bringing the strongest points to the City ordinance. Commissioner Gross suggested speaking with the Mayor first since he had sponsored the ordinance. Mr. John Heffernan, Aide to Mayor Dermer, indicated that the Mayor was in favor of opting out. Commissioner Garcia made a motion to opt out. Commissioner Bower asked if we could make our ordinance less restrictive. Commissioner Garcia suggested opting out now and bringing it back at the next meeting. Vice-Mayor Steinberg seconded the motion but added he wanted the City's Legal Department to review the existing ordinance and in the areas in which the County ordinance was more stringent than ours that the Administration should draft the amendments to bring it in line with the County ordinance. Vice-Mayor Steinberg further stated that since this is an item of great concern for the community, the City should adopt the more stringent parts of the County ordinance. Otherwise, it could send the wrong message to the residents of Miami Beach. Furthermore, Vice-Mayor Steinberg indicated that he would vote against the motion to opt out if we don't take a serious look at the areas of the City's ordinance that are weaker than the County ordinance. Vice-Mayor Steinberg specifically mentioned the section of the County ordinance which prohibits sexual predators from entering a park when there are unescorted children present in the park. Commissioner Garcia stated that if we do not opt out then we are weakening our ordinance.

Mr. Dubbin recommended opting out and then request that the Administration prepare proposed amendments that blend the desirable elements from the County ordinance into the City ordinance. Commissioner Bower asked if the City opts out can we make our ordinance weaker than the County ordinance. Mr. Dubbin answered yes. Commissioner Bower then asked who would be responsible to defend the ordinance if challenged. Mr. Dubbin stated that both the City and the County would have to defend their ordinances. Commissioner Libbin stated that the City Attorney's Office would not know the will of the Commission until there was a discussion. Commissioner Garcia suggested not trying to rewrite the ordinance in a committee meeting and make a motion to opt out of the County's sexual predator ordinance. Vice-Mayor Steinberg suggested that the motion include amendments to the City ordinance and to direct Legal to bring forth amendments to the City's sexual predator ordinance.

**Commissioner Libbin made a motion to opt out of the County's sexual predator ordinance and have the proposed amendments brought back to the Neighborhoods/Community Affairs Committee for discussion. The motion passed unanimously.**

**3. DISCUSSION OF ISSUANCE OF AN RFP FOR FEASIBILITY STUDY OF UNDERGROUNDING UTILITIES IN THE CITY OF MIAMI BEACH.**

The item was introduced by Ms. Kathie Brooks, Director, Office of Budget and Performance Improvement. Ms. Brooks indicated that the underground lines would be completed in phases specifically two phases. The first phase will look at the feasibility of undergrounding utilities and will look at existing conditions and constraints.

Vice-Mayor Steinberg asked if it was possible to look at the cost first for this project. Furthermore, Vice-Mayor Steinberg stated if the projected cost in phase one is prohibitive and the City cannot find a funding source, would it still make sense to continue phase two. Ms. Brooks stated that this can be done and elaborated on what are the special conditions and circumstances with undergrounding in Miami Beach. Commissioner Libbin inquired into what exactly are the special conditions. Ms. Brooks stated that because Miami Beach is a barrier island there is an issue with flooding and undergrounding. Mr. Middaugh interjected that there also seemed to be issues with FPL and their desire to not move forward with undergrounding. However, Mr. Middaugh stated that they received a letter from FPL yesterday stating that FPL was willing to explore undergrounding but under certain conditions it may include compromising some of the City's rights-of-ways in order to get the undergrounding completed.

Commissioner Gross expressed concerns with adding this project to the current list of ongoing CIP projects which are so numerous that it could overwhelm the department. Commissioner Gross stated that it could be a logistical nightmare to coordinate all the CIP projects and undergrounding. Commissioner Libbin stated that there are additional issues including the connection fee for the residents and the possibility of having to upgrade existing residential electrical systems, which is extremely costly to homeowners. Commissioner Gross stated that during the last hurricane season, he was under the impression that the real issue was the regional distributions (feeder lines) not the individual connections. Mr. Fred Beckmann, Director, Public Works Department stated that FPL has stated that they would be upgrading the feeder lines in Miami Beach.

**Commissioner Libbin made a motion, seconded by Vice-Mayor Steinberg to hire a consultant and bring this matter back before the Committee. The motion passed unanimously.**

JMG/HMF/VP

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# NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE

FEBRUARY 2, 2006

## SIGN-IN SHEET

PLEASE PRINT LEGIBLY

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Chotilde Luce	citizen	538 6707	
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